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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,414	04/22/2005	Harald Gaukel	10191/3791	1797
26646 7590 06/29/2007 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER PHAN, HAU VAN	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 06/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,414

Applicant(s)

GAUKEL ET AL.

Examiner

Hau V. Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgment

1. In view of the appeal brief filed on 5/7/2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oswald et al. (6,907,335) in view of Burdock et al. (6,526,342).**

Oswald et al. in figures 1-2, disclose a method for classifying an obstacle means of pre-crash sensor signals in a vehicle comprising an arrangement for triggering or deployment of restraining means as function of a velocity of the vehicle. The arrangement has a sensor to determine the velocity of an obstacle. Oswald et al. fail to show a sensor that used to determine the velocity of the vehicle and to perform a plausibility check for the velocity of the vehicle.

Burdock et al. in figure 1, teach an apparatus for controlling dampers in a vehicle suspension having a remote sensor to determine a velocity of a vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Oswald et al. with the vehicle having a remote sensor as taught by Burdock et al. in order to provide a signal varying as a function of the velocity signal.

Regarding claim 10, Burdock et al. disclose the sensor can be an acceleration sensor.

Regarding claim 11, Oswald et al. disclose means (3) for modifying at least one threshold to which at least one crash signal is compared for the triggering of the restraining device, as a function of the vehicle velocity.

Regarding claim 12, Oswald et al. disclose means (2) for subdividing the vehicle velocity into a predefined class as a function of a magnitude of the vehicle velocity and then for modifying the threshold as a function of the class.

Regarding claim 13, Oswald et al. disclose the at least one remote sensor that is an upfront sensor (1).

Regarding claim 14, Oswald et al. in combination with Burdock et al. disclose means (5) for comparing the signal of the upfront sensor to a plausibility threshold. The plausibility threshold positions below a trigger threshold for generating a crash signal of the upfront sensor. The vehicle velocity is being taken into consideration in the triggering of the restraining device as a function of the comparison.

Regarding claims 15-16, Oswald et al. disclose the vehicle velocity leading to a modification of the threshold in a frontal algorithm.

Regarding claim 17, Oswald et al. do not disclose a speedometer, but all the vehicle should at least have one speedometer.

Regarding claim 18, Oswald et al. disclose the velocity base on wheel speed data.

Response to Arguments

4. Applicant's arguments with respect to claims 9-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hau V Phan
Primary Examiner
Art Unit 3618

Hau Phan
6/20/07